

EXHIBIT “5”

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Byrne, Cheryl

From: Hermann, Jeffery [jhermann@orrick.com]
Sent: Saturday, January 20, 2007 3:15 PM
To: Chubb, Jan
Cc: Harvick, Chas; Tucker, Michael; Levinson, Marc A.; Charles, Robert; aloraditch@beckleylaw.com
Subject: Diversified - Treatment of the Colt loans in the plan

Jann:

Marc is out of pocket this weekend. Here is the language of the Plan that provides that DTDF will service the Colt Gateway loan.

Jeff Hermann

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ORRICK

From: Levinson, Marc A.
Sent: Tuesday, January 16, 2007 12:39 PM
To: Charles, Robert
Cc: Harvick, Chas; Hermann, Jeffery; 'Tucker, Michael'
Subject: Treatment of the Colt loans in the plan

Rob,

The following is an excerpt from Section IV.D.2 of the Plan, which may be found at page 50 of the non-booklet version:

Post-Effective Date DTDF shall retain the DTDF Estate and shall be funded by and consist of all assets of the DTDF Estate not collected or disposed of prior to the Effective Date, including all Cash and noncash proceeds. The assets of the DTDF Estate retained by Post-Effective Date DTDF include the DTDF Loans (including but not limited to rights associated with the former Epic and Sheraton Loans and the Loan Servicing Agreements for the Excluded DTDF Loans), the FTDF Transferred Assets, all DTDF Litigation Claims, including without limitation the Non-Debtor Insider Litigation, belonging to or assertable by the DTDF Estate, and the DTDF Estate's share of the IP \$58 Million Promissory Note. (Emphasis added)

The excluded DTDF loans are listed below:

- 1 10-90 Inc.
- 2 BySynergy, LLC \$4,434,446
- 3 Colt CREC Building
- 4 Colt DIV added #1
- 5 Colt DIV added #2
- 6 Colt Gateway
- 7 EPIC Resorts
- 8 Fiesta Development McNaughton
- 9 Interstate Commerce Center
- 10 Sheraton Hotel

1/23/2007

From: Charles, Robert [mailto:RCharles@lrlaw.com]
Sent: Tuesday, January 16, 2007 9:57 AM
To: Levinson, Marc A.
Subject: Colt

Where does it say in the plan that Diversified is servicing the Colt loans?

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